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MUNICIPAL REGULATION OF SUBDIVISIONS

What is the purpose of and authority for municipal control of land subdivision? To what extent does this control extend to developments outside the city? What are the desirable requirements of subdivision design and provision of utilities and community facilities? How can cities keep pace with development in providing facilities not required of the developer?

Each year thousands of acres of vacant land both inside and outside cities are subdivided into building sites for homes, businesses, and industry. The planning and development of a subdivision is of utmost importance to the city because the streets, lots, blocks, and construction of utilities and buildings establish a land use pattern which in all likelihood will remain for as long as the city endures. Therefore the planning and development of a new subdivision is in the final analysis the planning and development of a portion of the city.

Land subdivision regulation is the guidance of land development by a public authority in accordance with the comprehensive land use plan. The regulations control the physical layout of subdivisions and the improvements to be provided in completed subdivisions. Depending upon whether or not developers meet these requirements, the planning agency is authorized to approve or disapprove proposed subdivision plats.

To a developer a subdivision often may seem to be a project complete in itself but to the city it represents a dependent unit with definite relationship to existing streets, utilities, parks, schools, and other municipal facilities and services. If developers are not required to grade and pave streets and to install the minimum utilities necessary to convert vacant land into building sites, they may begin selling lots after doing no more than staking out the streets and lots and setting up a few crude street name signs. Persons buying these lots often may be unaware of the improvements necessary to make land usable for home building. When later confronted with the necessity for improvements they might be unable to meet this unexpected financial burden, perhaps lose their investments, or proceed to build without essential utilities.

This type of development creates unsightly and often unsanitary living conditions. Satisfactory development of near-by properties is also inhibited with resulting depressed values to other property owners. The city government, however, is the eventual loser through reduced tax income and increased expenditures for utilities and facilities for the poorly built-up area. The city must build new streets, lay water and sewer mains, install adequate street lighting and name signs, and provide other facilities. Many such improvements are normally financed through special assessments, but few new residential developments are able to pay the full cost of all needed improvements by special assessment. A large portion of this burden therefore falls upon general government funds.

Properly administered land subdivision regulations, as part of comprehensive community planning, are of benefit to subdividers as well as to the community and the home builder. This report supersedes MIS Report No. 30, *Municipal Regulation of Land Subdivision*, issued in December, 1946. As such it gives particular attention to developments of the last decade including financial responsibility for physical improvements and community areas, extraterritorial jurisdiction, and development timing.

Subdivision Control

State Enabling Legislation. All 48 states have passed some type of enabling legislation permitting cities to adopt subdivision regulations. These enabling acts vest authority for land subdivision regulation in the planning agency or the city council. These acts customarily provide that the powers may be exercised only after the planning agency has: (1) prepared, adopted, and filed with the county recorder of deeds a master plan or at least the major street portion of a master plan; and (2) prepared, adopted, and made available to the public a set of rules and regulations establishing standards for land subdivision and outlining procedures to be followed. Such limitations are desirable. Unless such plans are available the planning agency is not qualified to determine the location and width of streets or what public open spaces should be required and where they should be located. Likewise, the planning agency cannot require observance of standards unless it has made carefully formulated regulations available to all subdividers.

State laws on this subject generally permit cities to provide for the control of lot sizes and street layouts, to require the installation of utilities, and to require provision for public open spaces and other facilities. State legislation is primarily concerned with residential subdivision but is also applicable to commercial and industrial development.

State enabling acts do not specifically provide for restrictions on the amount of land that may be subdivided. In the past excessive subdivision has created many problems for cities. Prior to the post-war building boom it was estimated that there were 15 million unused lots subdivided during the land speculation boom of the 1920's. Premature and excessive subdivision also contributes to tax delinquency. At one time over 90 per cent of the tax deeds held by the state of California were on such subdivided lots.

Subdivision Regulations. The planning agency should formulate and publish the requirements that subdivisions must meet relating to: (1) the layout of streets, blocks, and lots in the subdivision so as to make it conform with the master plan, and (2) the provision of required utilities and facilities and public open spaces. A third area of regulation included in some recent subdivision regulations is concerned with regulating the timing or tempo of development so as to enable local governments to keep pace needed in providing community facilities not provided by developers.

The preparation and publication of regulations by the planning agency prior to exercise of subdivision control authority is often required by state law. This procedure permits the developer to know what is expected of him and thus saves time for the developer and the planning agency and its staff. The developer also has assurance that the standards of the planning agency will not be arbitrary but based on stated principles and requirements. The regulations do not guarantee that all proposed subdivisions will be of an equally high quality of design since much still depends on the ability of the subdivision designer himself. Many defects in design will be prevented, however, particularly when the planning staff is well-versed in good land subdivision practice and cooperates with the developer.

Process of Approving Subdivision Plats. When the planning agency has been delegated the authority for subdivision regulation, a procedure similar to that described below is usually followed:

Before undertaking any construction work or selling any lots in a subdivision, the developer is required to file with the planning agency for approval a preliminary plan. Platting regulations should outline clearly what should be included in the preliminary and final plats. It is desirable that the developer confer with the planning agency while the plan of a subdivision is in preliminary form in order to ascertain the master plan and other requirements with which he will be expected to comply. Consultation with the engineers who will pass on final plans for streets and utilities should also be arranged at this stage.

The planning agency should not try to assume the role of designer but should encourage land developers to use the services of competent professional people. If the developer and his staff are left free to exercise their own imagination and ingenuity in preparing land subdivision plans — provided only that they comply with the minimum requirements set forth in the platting regulations — the community is likely to gain in the individuality and character of its subdivisions.

Within 30 or some other specified number of days after the preliminary plan is submitted, the planning agency holds a hearing on the plan for which advance notice is sent to the developer and to owners of property immediately adjacent to the tract of land being subdivided. After a review of the plan by the agency and by the engineers concerned and after consideration of facts brought out at the hearing, the developer makes any changes that may be required. Then the planning agency records on the plat its approval or its disapproval. The preliminary plat, however, is not a final acceptance of the plat.

After giving its approval to a preliminary plat the agency returns one print of the approved plat to the developer and transmits prints to administrative officials in charge of street pavement and water and sewer construction. The developer may then arrange with these officials for the necessary permits for construction and for inspection of the work to be done.

After the developer has completed the required construction work in his subdivision to the satisfaction of the city departments having jurisdiction, or after he has executed a performance bond for the construction, the developer may file with the planning agency a final plat for final approval. The final plat should be accompanied by certificates of the proper administrative officials to the effect that all improvements have been satisfactorily completed in accordance with city specifications and/or a performance bond, certified check, or other negotiable instruments permitted by law assuring the construction of those improvements still uncompleted. The platting regulations will specify the size of sheets, scale, and kinds of information that must be shown on the final plat.

On receipt of the final plat together with any required certificates and performance bonds, final approval is given within a specified time if the final plat conforms to the preliminary plat as tentatively approved. The final plat is then returned with the agency's approval to the subdivider who then files the final plat for record with the county clerk or register of deeds within a specified time. The approval of the final plat is not deemed to be an acceptance by the public of the dedication of any street or other public way or grounds. Public acceptance of proffered dedications can be made only by the governing body of the city.

Extraterritorial Jurisdiction

The need for land subdivision regulation in urban fringes is indicated by the rapid growth taking place in areas adjacent to cities (see section on extraterritorial zoning in MIS Report No. 150, *Recent Developments in Zoning*, July, 1956). This rapid growth is reflected in population estimates of the United States Bureau of the Census released in November, 1955. Since the 1950 census, the population of 168 standard metropolitan areas increased 13.7 per cent, but the rate of growth in the outlying parts of metropolitan areas, 27.8 per cent, was seven times as rapid as that in the central cities, 3.8 per cent. Furthermore, growth in the outlying parts of standard metropolitan areas was greatest in territory classified as "rural" in 1950. The population of this area increased 46.5 per cent as compared to an increase of 19.1 per cent in outlying territory classified as "urban." Undoubtedly much of this territory classified as rural in 1950 would now be reclassified as urban.

Subdivision regulations as a means of controlling expansion outside the city limits is essential for orderly growth. When the city extends its boundary lines this territory becomes a part of the city; but even if it remains forever outside the boundaries of the city, it is in many respects a part of the city. Therefore a city that exercises adequate land subdivision control both inside and outside the city is guiding the development of newly built areas which affect the city in one way or another.

The exercise of subdivision regulations in fringe areas by cities is much more frequent than zoning controls. In a special study of fringe area conditions of 174 selected cities over 5,000 population made for the 1954 *Municipal Year Book*, 77 per cent of the cities had adopted comprehensive subdivision regulations and 37 per cent possessed authority to regulate land subdivision outside of the city. About four times as many cities possess authority for extraterritorial subdivision control as compared to those with extraterritorial zoning powers.

The extent of city authority to regulate land subdivision outside of the city varies greatly with a range of as much as one-half to 10 miles. Three miles was once considered as an adequate distance, but due to the increase in the number of automobiles and improved highways making it possible

for people to live farther from their place of work, the recommended minimum distance is now five miles. Of the cities surveyed for the *Municipal Year Book* about two-fifths exercise subdivision control up to five or six miles beyond the city limits; another one-third up to three miles; and the remainder from one to two miles.

As with zoning, the question of jurisdiction often arises when cities are given extraterritorial subdivision authority in counties with power to establish regulations for unincorporated parts of the county. This problem may be resolved either through the enabling legislation or through intergovernmental cooperation.

The enabling legislation should determine the jurisdiction. In Ohio, county and regional planning commissions are not given authority over platting within three miles of a municipality of more than 5,000 population. City planning commissions exercise control within this three-mile belt, but close cooperation usually exists between the city and county planning commissions. If the law as to the respective jurisdictions of county and city planning agencies is not clear, however, it is necessary for the two agencies to reach some understanding in order to avoid difficulties and misunderstandings. Either the city or the county should consider relinquishing its jurisdiction in the area overlapping jurisdiction. One of the difficulties in resolving the matter of jurisdiction is that often county subdivision standards are much less stringent than those required by cities. If the county planning commission is well established, adequately staffed, and has developed a major street plan, it is not unreasonable for the city to depend upon county regulation. This is the policy followed in Detroit and Wayne County, Michigan.

Design Standards

Coordination with Master Plan. Prior to adopting design standards in subdivision regulations, it is important that the planning agency have a master plan, or at the very least the major street portion of a master plan, so that the regulations may require that all subdivisions be laid out in conformity with land use in the over-all plan. All major streets shown on the master plan within or bordering a proposed subdivision are required to be provided at the location and at the width designated on the master plan. In addition the subdivision must conform in all respects with the zoning ordinance which is part of the master plan, especially with respect to land use, height, and area requirements.

In the following discussion of design standards in land subdivisions, specific figures, such as widths of streets and alleys, will frequently be mentioned as illustrations and suggestions. These figures, however, should not be taken as universally applicable standards. Desirable minimal requirements and standards will vary considerably in different localities and can be determined only after careful consideration of the local situation.

Streets. The arrangement, character, extent, width, grade, and location of all streets should conform to the master or comprehensive city plan. Streets should be laid out with consideration for existing and planned streets, topographical conditions, public convenience and safety, and the proposed land uses to be served by the streets. If an area proposed for subdivision is not shown in the master plan, the arrangements of the streets should either continue or project the existing principal streets in surrounding areas or conform to a neighborhood plan approved by the planning commission when topographical or other conditions make continuance or conformance to existing streets impractical.

Minor streets should be laid out so as to discourage their use by through traffic. If a subdivision abuts or contains an existing or proposed arterial street, special requirements should be made to provide for adequate protection of residential properties and to separate through and local traffic. Such special requirements may include deep lots with rear service alleys; provision of marginal access streets with planting strips separating the arterial street from the access streets; or providing reverse frontage lots with access being provided on a minor street.

Normally streets should be laid out so as to intersect as nearly as possible at right angles. It generally is considered desirable that no street should intersect any other street at less than a

60-degree angle. Street intersections should be continuous rather than jogged, but street intersection jogs can be permitted provided they do not have center line offsets of less than 125 feet.

Street right-of-way widths should be required as shown in the master plan. No uniform standard right-of-way widths are applicable to all cities, and each community should consider this problem of street width standards from the point of view of its own experience and local conditions. However, 80 to 120 feet is generally considered reasonable for arterial streets, 60 feet for collector streets, 60 feet for minor streets for row houses and apartments, 50 feet for minor streets for other residences, and 40 feet for marginal access streets.

Street names should be subject to the approval of the planning agency, and no street names should be permitted which might tend to duplicate or be confused with the names of existing streets. House numbers should be assigned in accordance with uniform standards for the entire city.

Maximum street grades should be specified to reduce traffic hazards due to the mechanical limitations of motor vehicles or pavement surfaces and minimum street grades to secure adequate street drainage. Regulations in each city must consider topography and climate. Locally acceptable maximum and minimum grade limits should be adopted only upon the advice of the city engineer or other qualified engineering consultants.

Alleys. Alleys usually are not needed in residential subdivisions, particularly in single-family dwelling districts. There are two main objections to alleys: (1) they take up valuable land area; and (2) they are expensive for the city to maintain. Alleys usually are needed, however, for more intensive land uses: apartment house districts, commercial districts, and some industrial districts.

Utility Easements. Utility easements should be required in order to place telephone and electric poles and sewer and water lines at the rear of lots. These easements normally should be provided at the rear and side property lines and should be at least 10 to 12 feet wide. Easements not only beautify residential neighborhoods but do not require the city to tear out streets for utility repairs and improvements.

Blocks. Design standards should permit a substantial degree of flexibility in block design. Four basic factors should be considered in determining the length, width, and shapes of blocks: (1) provision of adequate building sites suitable to the type of use contemplated; (2) zoning requirements as to lot sizes and dimensions; (3) the need for convenient access, circulation, control, and safety of street traffic; and (4) limitations and opportunities of topography.

The current trend in residential subdivision design is to provide larger blocks, primarily due to the increased use in the automobile which has limited the convenience of short blocks. Larger blocks are also more economical to maintain and reduce the initial cost of land and improvements as the number of required cross-streets is reduced. Maximum lengths permitted usually vary from 1,000 to 1,800 feet and minimum lengths from 400 to 500 feet. In subdivisions where lots will be individually divided, blocks should be wide enough to permit two tiers of lots, although this provision may be waived in subdivisions for large-scale, planned developments.

Lots. The lot size, width, depth, shape, and minimum building setback lines are determined by the location of the subdivision and the proposed type of development and use. Regulations governing lot areas and dimensions must complement those contained in the zoning ordinance by requiring that lots shown on proposed subdivision plats conform to lot requirements for that zoning district. Similarly the depth and width of properties being laid out for commercial and industrial purposes must be adequate to conform to the zoning requirements for off-street loading and parking facilities required of that type of use.

Another factor which influences the size of lots is whether or not the subdivision will be served by sanitary sewers. Where they are not, the size requirements will vary from city to city. However, the size of such lots must be sufficient to accommodate individual septic tanks and leaching fields. State and local health regulations and standards and soil conditions are controlling factors in these circumstances.

Other important design factors relating to lots are that (1) corner lots in residential subdivisions should have extra width to permit appropriate building setbacks from and orientation to both

streets; (2) each lot should be provided with satisfactory access to an existing public street; and (3) side lot lines should be at substantially right angles or radial to streets.

Character and Extent of Improvements Required

The character and extent of improvements to be installed as a condition of final approval of a subdivision should be included in all regulations. The improvements can be considered in three groups: (1) utility installations and other physical improvements needed for the immediate development; (2) utility installations and other physical improvements serving an area larger than the development; and (3) community areas. The first group includes street grading and paving, curbs and gutters, sidewalks, water and sewer lines, street lighting, street trees, and street name signs. The second group includes trunk lines for water and sewers, some types of storm drainage, and arterial streets. The third group includes community sites for parks, playgrounds, schools, and other public building sites.

Although the types of improvements required in new subdivisions will vary city officials and developers generally agree that improvements needed to provide municipal services in an immediate development should be installed. Some are of the opinion, however, that some requirements are not properly the responsibility of the individual developer but of the community as a whole. Included in this category are the costs of installing trunk water and sewer lines and arterial streets and providing land for parks, playgrounds, and school sites. Such requirements do not benefit only the immediate subdivision. As such they are properly costs to the entire community.

Utilities and Street Improvements. Improvements normally required in new residential developments include street grading, street paving, curbs and gutters, sidewalks, water lines, sanitary sewers, and storm sewers. In addition, some cities require street lighting, street trees, seeding of planting strips, and street name signs.

The majority of cities now require subdivision developers to pay for most of these improvements in new residential areas. A study of subdivision policies in 115 cities of more than 50,000 population was made late in 1955 by the Urban Land Institute in a report entitled *Utilities and Facilities for New Residential Development* (Urban Land Institute Technical Bulletin No. 27, 1200 18 Street, N.W., Washington 6, D.C. 1955. \$3).

Of the cities replying to the survey, 90 per cent required the developer to pay for street grading, 75 per cent for street paving, 78 per cent for curbs and gutters, 74 per cent for sidewalks, 60 per cent for water mains, 78 per cent for sanitary sewers, and 71 per cent for storm sewers. Compared to a similar survey made by the Urban Land Institute in 1950, the percentage of cities requiring the developer to make the above improvements increased substantially except for curbs and gutters and sidewalks which decreased slightly.

The two surveys indicated that some cities are assuming financial responsibility for the more expensive improvements required to serve developments beyond the immediate subdivision. Forty-three per cent of the cities paid all of the costs of wider streets or heavier street paving or larger water and sewer mains when needed to serve the development outside the subdivision in question; 40 per cent paid part of the costs; and only 17 per cent of the cities contributed nothing.

Reimbursement of costs of the developer for improvements within the immediate subdivision was reported by 36 cities according to the Urban Land Institute study. Sixty-four cities did not reimburse any part of the costs, and in the 14 other cities the question was not applicable. The improvement items for which payments are most frequently made by cities to developers are for water and sewer mains. Oklahoma City, Oklahoma; Pasadena, California; Phoenix, Arizona; Richmond, Virginia; Salt Lake City, Utah; Springfield, Massachusetts; Tacoma, Washington; and Tulsa, Oklahoma, report specific arrangements for reimbursement for costs of water service installations. Dallas reimburses developers for sewer and water mains as connections are made from outside new subdivisions to the mains. Denver pays the developer 55 per cent of the revenue the city receives from the subdivision over a 10-year period but not to exceed the initial investment. Kansas City, Missouri, pays back for water main installation costs on the basis of each house connection.

In Austin, Texas, 90 per cent of the developer's costs for water and sanitary sewer systems is paid by the city when these installations are acceptable to the city, and 80 per cent when either water or sanitary sewer systems are acceptable. Nashville, Tennessee, contributes \$100 per dwelling toward deferring the developer's outlay for water main costs in his development.

Sometimes repayments are made for street improvements. New Orleans absorbs between 40 and 60 per cent of street improvement costs in order to insure better surfacing, while Akron, Ohio, pays the cost for street intersections. El Paso, Texas, reimburses the developer for streets having widths over 40 feet and for intersections.

When wider or heavier street paving or larger water and sewer mains are needed to serve areas outside a particular subdivision, cities are more likely to assume financial responsibility for all or part of the costs of such improvements. Of 103 cities replying to the Urban Land Institute on this point, only 20 cities indicated that they assumed none of the costs. Forty-three cities paid all of such costs and 40 cities shared in the cost. Kansas City, Missouri, pays additional cost for water mains and trafficways and makes a partial contribution for parkways. Oakland, California, pays extra costs where wider or heavier streets are required, and San Diego, California, pays all or part of additional costs involved depending upon the circumstances. Albuquerque, New Mexico, pays all the costs outside the immediate subdivision if the water and sewer mains are called for on the master plan. In Alexandria, Virginia, the city and the developer may enter a signed agreement for off-site improvements with cash advanced by the developer and reimbursed by the city under terms. Richmond, Virginia, refunds to the developer an amount equal to the actual cost of extending 12-inch sanitary sewers 50 feet for each sewer service connection and for 6-inch water mains during a 10-year period. The refund may not exceed the amount paid the city for sewer and water main extension.

Community Areas. The solution to the problem of providing community areas and facilities necessary to serve new residential development has been much more difficult for cities to solve. Many cities have failed to establish positive programs and policies for community areas. The following policy concerning public sites and open spaces is contained in the Housing and Home Finance Agency publication, *Suggested Land Subdivision Regulations*:

"Public Sites and Open Spaces

"1. Where a proposed park, playground, school, or public use shown in a general community plan (comprehensive or master plan) is located in whole or in part in a subdivision, the planning commission may require the dedication or reservation of such area within the subdivision in those cases in which the planning commission deems such requirements to be reasonable.

"2. Where deemed essential by the planning commission, upon consideration of the particular type of development proposed in the subdivision, and especially in large scale neighborhood unit developments not anticipated in a general community plan, the planning commission may require the dedication or reservation of such other areas or sites of a character, extent, and location suitable to the needs created by such developments for schools, parks, and other neighborhood purposes."

Such provisions as the above suggested by HHFA are at best guides for planning commissions which also must take into account the character and size of the individual developments and existing facilities within the neighborhood. To make percentage dedications mandatory is often unreasonable for the developer of a small subdivision since he may be required to surrender a large part of his tract, or contribute more than his share towards a recreation area or building site that is to serve a larger neighborhood or the community as a whole. Dedications of 5 or 10 per cent of the land of small subdivisions often results in sites too small to be usable, not suitably located, and difficult to maintain.

Provision of public sites, however, is important to the welfare of each subdivision and the community. The planning agency should determine the desirable location of sites of sufficient size to be of the best functional utilization and indicate this proposed land use in the master plan. When the developer first proposes to subdivide an area containing such a proposed public facility, the planning agency should call his attention to the requirement of the master plan, pointing out the value of the facility to his development, and request that he dedicate or reserve the site. Should it

prove necessary to compensate the developer for this site, the city should be able to acquire it at the cost of raw land.

Several California cities have adopted a policy of requiring developers to dedicate land for parks and recreational purposes or to pay a specified fee either per lot or per acre to be deposited in special funds for acquisition of parks and recreation areas. Claremont and Whittier charge fees of \$30 per lot and \$50 per acre respectively. The cities of Anaheim, Arcadia, Azusa, Corona, Fullerton, Monterey Park, Orange, and San Gabriel charge \$25 per residence lot, Fontana \$10 per lot, La Verne \$50 per lot.

In some instances subdividers are permitted to dedicate land for recreation and park purposes in lieu of voluntary contributions. Stockton, California, requires that one acre or portion thereof be dedicated to the city by the subdivider for each 100 families or portion thereof in the subdivision, and in lieu of the land the subdivider must contribute an equivalent value. A difficulty sometimes encountered when a subdivider offers land in lieu of cash is the unsuitability of a site marginal in location and topography.

Provision of land for community facilities is only part of the answer to providing parks, playgrounds, and schools for the new population generating the demand and need for such facilities. Many cities do not have the financial resources necessary to develop such facilities. Although schools in most parts of the country are provided by local school districts, cities also have realized that development taking place within and without the city has created serious financial problems for these governmental units. No solution has yet been developed, but scattered attempts have been made within the past couple of years to require developers to aid in the financing of new schools.

In September, 1954, Park Ridge, Illinois (21,879), adopted subdivision regulations including a provision requiring subdividers to pay the city \$300 for each lot for the purpose of building additional school facilities. The money was placed in a special fund known as the "(name of the subdivision) Subdivision School Fund," where it was to be held for five years or until a new school building was constructed or improvements were made. If the school district constructed a new school building or made an addition to an existing building, either in the subdivision or within three-fourths of a mile from it, the money held by the city in the special fund was to be turned over to the school district upon completion of the construction. If the school district did not make any improvements within five years the city would refund the money to the subdivider or his assignee.

The Park Ridge requirement had been in effect nine months when the Illinois state attorney general ruled that it was invalid in June, 1955. The attorney general held that local communities in Illinois could not enact such ordinances unless they had had specific authorization from the state legislature.

Development Timing. The rapid rate of urban growth within recent years has prompted some authorities in the planning field to advocate the use of zoning and subdivision controls to establish new types of regulation termed as "development timing." Few cities have actually adopted such regulations and very little has been written on the subject. The best information available is contained in selected papers presented at the 1955 conference of the American Society of Planning Officials in a session entitled "Clinic: Development Planning." These papers are included in *Planning: 1955* available from the American Society of Planning Officials (1313 East 60 Street, Chicago 37. 1956. 216pp. \$4).

There are two general purposes for the regulation of development timing: (1) to prevent the speed of development in a given community from outstripping the ability of the city to provide municipal services such as water supply, sewage, schools, recreational facilities, and major streets; and (2) to prevent excess subdivision and its accompanying problems.

Regulations of the timing of urban development are concerned with both the tempo and the sequence of development. Tempo is concerned with the rate of urban development and sequence with the encouragement of development in areas most ready to absorb such growth before opening additional lands to intensive use.

Subdivision regulations can be used to control development planning directly or indirectly.

The indirect means are accomplished through the usual subdivision regulations now in use in most cities. These regulations place enough financial impediments in the development of an area to require the developer to plan a subdivision which more closely approximates the need for additional homes. These regulations, which primarily serve other purposes than controlling the pace of development, require the developer to install certain facilities and to make the subdivision a finished neighborhood. The direct means of control consists of refusing to permit a subdivision which is in excess of a given number of lots at any one time. A city in order to exercise such control would have to have an ordinance or regulation setting forth reasonable standards to guide the planning agency in making such decisions.

Milford, Connecticut, has used this approach because rapid population growth and increasing demand for municipal services are running ahead of the ability of the town to finance the necessary facilities. The planning board at first disapproved new subdivisions on the basis of the general welfare clause in the subdivision control enabling legislation. This action, however, was held as invalid by the state court which stated the planning board could not disapprove the subdivision because the existing subdivision regulations contained no requirements that the subdivisions had not met.

Milford city officials then adopted "development timing" regulations and made them part of the master plan. The key factor established in the regulations in considering the approval or disapproval of new development is whether it will require extensive new municipal services or whether it is in an area already served with adequate facilities. A special map called a "Subdivision Priority Map" was adopted as part of the official master plan and on it are shown "high priority areas" (areas already adequately served with facilities) and "low priority areas" (areas that are not served or served inadequately).

In approving a proposed subdivision within a "low priority area," the planning board is to consider whether:

"(a) At least one existing street leading from the subdivision to the high priority area is of sufficient width, suitable grade and alignment, suitably improved, and suitably located to accommodate the prospective increased traffic and to provide adequate means of access for fire fighting equipment;

"(b) The existing sanitary sewer mains and sewage disposal facilities or water mains and water pumping facilities or storm water drains are adequate to accommodate the additional demand that will be created by the subdivision;

"(c) The public elementary school system, either existent or approved for construction, is adequate to accommodate the prospective number of school-age children who are likely to live in the subdivision."

If the board finds any facilities available to the proposed subdivision to be inadequate as related to the above standards, they may approve the subdivision subject to a development schedule shown on the preliminary plat of the proposed subdivision. The regulations state that "such schedules shall permit not less than 20 per cent of the lots shown on the approved preliminary layout to be developed each year over a period not to exceed five years, in order to allow time for necessary municipal facilities to be constructed at a rate somewhat parallel with the rate of construction in the subdivision. The subdivider may then present a final subdivision plan comprising the number of lots scheduled for the first year, and additional plans each year in keeping with the schedule."

This regulation does not limit the proposed development to 20 per cent a year but permits at least that much. It is the discretion of the planning board to permit a greater rate of development if the accelerated rate will still permit the town to plan, finance, and build the needed facilities.

The regulations also contain a provision for situations where the developer is willing to eliminate at his own expense existing inadequacies in facilities and thus speed up the rate of development. This is a completely voluntary procedure and is not required of the developer. The subdivision area then is reclassified from a "low priority area" to a "high priority area" with no limitation on the rate of development. To guide this voluntary arrangement, the regulations establish the following standards limiting the extent of improvements that would be required to reclassify the area to a "high priority area":

"a. In the case of streets, no right-of-way shall be required to be widened to a width greater than 60 feet, no street pavement shall be required to be widened to a width greater than 40 feet, and no street improvement shall be required of the specifications applicable to secondary streets. Where land outside the subdivision must be acquired for street widening, the applicant shall pay to the town the cost of acquisition, including engineering and legal fees.

"b. In the case of sanitation, water, or drainage facilities, no new facility or enlargement of existing facility shall be required in excess of that necessary to serve the houses in the subdivision. However, this section shall permit the board to consider off-site problems which might be created by the new development, in which case no new facility shall be required in excess of that necessary to meet the condition created by the subdivision.

"c. In the case of public schools, it shall be assumed that each lot in a one-family residence zone will accommodate one house, and that each house will add one additional child to the kindergarten through eighth grade school population, and that one classroom shall be necessary for each 30 children, and no public school facility shall be required in excess of the buildings and equipment so determined."

Subdivision regulations are not the only regulatory names currently being used to influence or control the timing of development. Zoning regulations are also being used. A recently adopted ordinance in Clarkstown, New York, schedules residential growth so that it radiates outward in intensity from established population centers. The ordinance calls for the development of inner areas adjacent to existing settlements before advancing into outlying areas.

Large-Scale Developments. Much of the development since World War II has been large-scale, planned subdivisions financed by responsible real estate men backed by large sums of capital. Such developments normally provide not only all the improvements required by the city but often additional improvements sometimes not specified in the regulations such as street trees or planting strips.

Greater freedom can be allowed for such developments in subdivision regulations. When plans for large-scale development and building accompany a proposed plat for a large subdivision, the planning agency should consider the development as a whole and weigh the plans against general standards of light, air, recreational space, and traffic circulation. Since the standards of design in subdivision regulations are intended to prevent undesirable developments, they may be modified somewhat for the large, planned development.

The standards which usually are allowed to be modified include block dimensions, local street widths, and cul-de-sac lengths. However, the planning agency should assure itself that the developer of this type of subdivision has the financial resources to carry out and complete the development plans.

Other Regulations and Codes

Subdivision regulations must operate within a complex framework of state statutes varying widely from state to state. Some states are much more liberal than others in granting such powers. City officials should consider subdivisions as an extension of land use planning. Careful attention also should be given to the regulatory codes controlling any type of residential construction including building, fire, plumbing, electrical, public health (septic tanks for example), and zoning.

Meeting these requirements can be time consuming and expensive for the developer. The planning agency should make every effort to serve as the focal point for information and service on these requirements. The permits usually will be issued by various city departments, but the planning agency should be able to guide the developer through the regulations in the easiest way possible. In addition the planning agency should take responsibility for seeing that all requirements are met before issuing occupancy permits for completed houses. A check list would serve well for this purpose by providing brief explanations and statutory and ordinance references.

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- Note*: References to typical subdivision regulations will be found on pp. 484-485 of the 1956 *Municipal Year Book*.

